

DECLARATION OF JESS PINO

I, Jess Pino, do hereby declare and state the following:

1. I am the Executive Assistant employed by the Federal Bureau of Prisons ("BOP") at the Federal Correctional Complex located in Victorville, California ("FCC Victorville"). As the Executive Assistant, I am an advisor to the Complex Warden on matters of policy, programs, and operations. I am also the Public Information Officer for the Complex. I make the following factual statements based on my personal knowledge and my review of the official records of FCC Victorville and of the BOP, including records of the policies developed with respect to the temporary housing of detainees in the legal custody of the Department of Homeland Security, Bureau of Immigration and Customs Enforcement at the Federal Correctional Institution II beginning on June 8, 2018.

2. I am making this declaration in support of Stephenson Awah Teneng, et al. v. Donald J. Trump, et al., in Case No. 5:18-CV-01609. If called as a witness, I could and would competently testify thereto.

3. On or about June 4, 2018, the Executive Staff at FCC Victorville was informed that the BOP would be temporarily housing up to one thousand (1,000) detainees in the custody of the Department of Homeland Security, U.S. Immigration and Customs Enforcement ("ICE") and that those detainees would be housed at the Federal Correctional Institution II ("FCI II"). To prepare for these detainees, the BOP first transferred approximately 600 federal inmates who had been housed in Housing Units A, B, E and F at the FCI II to the FCI I.

4. ICE transferred the first groups of detainees to the FCI II on Friday, June 8, 2018, and continued to do so through Tuesday, June

12, 2018. ICE transferred a final group of detainees to the FCI II on July 27, 2018. ICE has not transferred any detainees to the FCI II since that date. Furthermore, there are currently no ICE detainees at the FCI II; the final group of detainees left the institution on September 14, 2018.

5. BOP staff at the FCI II had to conduct an initial screening of each of the detainees during which time the BOP determined their name, obtained any available identifying information and assigned a register number to them. The detainees were then assigned to housing units separate from the federal inmates. The detainees were housed in four housing units, with each unit divided into two pods. Each pod can house up to one hundred twenty-eight (128) detainees.

6. As of August 1, 2018, FCC Victorville had forty-three permanently assigned medical staff consisting of:

- 1 Clinical Director
- 1 Staff Physician
- 1 Complex Health Service Admin
- 2 Assistant Health Service Admin
- 1 Chief Dental Officer
- 2 Dental Hygienist
- 4 Pharmacist
- 1 Pharmacy Technician
- 3 Dentist
- 7 Mid Level Practitioners
- 1 Medical Technician
- 1 Supervisory Clinical Nurse
- 4 Registered Nurses
- 1 Licensed Vocational Nurse
- 1 Emergency Medical Technician
- 1 Paramedic
- 1 Infectious Disease Coordinator
- 1 Quality Improvement and Infectious Control
- 3 Health Information Technicians
- 3 Health Service Assistants
- 1 Social Worker
- 1 Phlebotomist
- 1 Physical Therapist

In addition, the Public Health Service sent the BOP approximately twenty-five medical staff to assist with the provision

1 of medical screening and examinations for the newly arrived
2 detainees. Throughout the time that the BOP temporarily housed ICE
3 detainees at the FCI II, the PHS had 4 or 5 of their medical staff
4 temporarily stationed at the facility.

5 7. Upon the detainees' arrival, the last of which took place
6 on July 27, 2018, much of the BOP medical staff's focus was on
7 conducting "History & Physical" medical screenings of each detainee,
8 which included visual checks for infectious disease, to prevent the
9 potential spread of communicable diseases such as chickenpox and
10 tuberculosis. Indeed, as a result of this screening, BOP medical
11 staff identified 32 detainees with chickenpox. Each of these newly
12 arrived detainees was medically isolated. In addition, all of the
13 newly arrived detainees who had been exposed to these detainees were
14 placed on quarantine, consistent with the BOP's Clinical Practice
15 Guidelines on Varicella Zoster Virus Infections, a copy of which is
16 available at <https://www.bop.gov/resources/pdfs/varicella2016.pdf>. In
17 addition, dental staff conducted a dental examination of the
18 detainees within a few days of their arrival at the FCI II.

19 8. Upon the detainees' arrival, BOP medical staff also
20 conducted a mental health screening intake process for each detainee.
21 During the mental health screening, a psychology staff member met
22 with each detainee to fill out a Psychology Services Inmate
23 Questionnaire ("PSIQ") form. A blank copy of the PSIQ form is
24 attached as Exhibit A.

25 9. Upon the detainees' arrival, BOP staff also conducted a
26 social screening for the detainees to determine whether they could be
27 housed on a general population unit. During that screening,
28

1 detainees received information about the institution's rules and
2 processes.

3 10. During their initial mental health and social screenings,
4 and during their "History & Physical" screening, each detainee was
5 advised of the procedure to request non-emergency and emergency
6 medical attention. Detainees were instructed to immediately inform
7 their Unit Officer of any emergency medical situations. Detainees
8 were informed that for non-emergency medical needs, each housing unit
9 was provided sick call slips which detainees could fill out to report
10 these medical conditions. The sick call form is attached hereto as
11 Exhibit B. Each day during "sick call", the medical staff visited
12 each housing unit to read the detainees' forms for medical requests
13 and then provide the requested medical assistance to the detainees as
14 appropriate. During the sick call visits, the medical staff also
15 provided the detainees with over-the-counter and other medications.

16 11. During the physical and mental health screenings and during
17 sick call visits, a language line was available to the medical staff,
18 which could translate for the staff and detainee. Medical forms were
19 only available in English and Spanish, but medical staff could use
20 other methods such as the language line to explain the forms to the
21 detainees.

22 12. Due to the large influx of detainees sent to the FCI II on
23 June 8, 2018, and a shortage of extra clothing available for the
24 detainees, those detainees arriving in June of 2018 were provided
25 with three sets of underwear and one jumpsuit upon their arrival. On
26 or about June 11, 2018, three days after the first detainees arrived,
27 BOP staff began allowing detainees to turn in their underwear for a
28 clean set in a one-for-one exchange. As a result of a shortage of

1 jumpsuits, however, the BOP staff temporarily distributed paper
2 clothing in exchange for the used jumpsuits so that they could be
3 laundered and then re-distributed to the detainees. This temporary
4 situation was alleviated when the additional clothing that the BOP
5 had ordered arrived at the institution on July 5, 2018.

6 13. The detainees were provided the same food that the inmates
7 receive at FCC Victorville, from a national menu in compliance with
8 national nutritional standards. The Food Service Administrator
9 regularly ensures that Food Service employees oversee the meals being
10 served to ensure they comply with the national menu. Each Assistant
11 Food Service Administrator also oversees the quality of the food
12 being served on the line. All meals were reviewed for accuracy and
13 adherence to the national menu prescribed by the agency.

14 14. FCC Victorville staff provided the detainees with
15 alternative meal options, in accordance with the national menu and
16 national nutritional standards. For example, heart healthy and no
17 flesh (vegetarian) entree items were offered to detainees. Records of
18 the weekly menu that was served at FCC Victorville, attached as
19 Exhibit C, shows multiple options for no flesh and heart healthy
20 items. Notably, some tofu and soy items look like meat. Pictures are
21 posted in the dining hall to clarify which meat or vegetarian product
22 is being served on the line. When a detainee wanted an alternative
23 item, they only needed to point at the sign indicating no meat (a
24 chicken, cow and pig encircled with an x marking out the animals),
25 and they would be served the non-meat option. This sign is attached
26 as Exhibit D. Although this sign was not posted in the detainees'
27 housing units and the detainees were sometimes served food in their
28

1 housing units, on these occasions BOP staff communicated to detainees
2 which meal option was vegetarian.

3 15. BOP has an established process for providing halal or
4 kosher meals to individuals it detains. The policy is set out in 28
5 C.F.R. § 548.20 and Program Statement 5360.09, Religious Beliefs and
6 Practices, page 17. To summarize, any detainee wishing to be
7 provided a religious diet simply needed to submit a request and
8 undergo a short interview by the facility's chaplain. The BOP
9 regularly provides halal and kosher meals to individuals in its
10 custody and could have done so for the ICE detainees. However, I did
11 not find any instance in which any of the ICE detainees made a
12 request for halal or kosher meals.

13 16. BOP was not advised of any instances when rotten or spoiled
14 food was served to detainees. The Food Service Administrator
15 regularly ensures that Food Service employees oversee the meals being
16 served to ensure they comply with the national menu. Each Assistant
17 Food Service Administrator also oversees the quality of the food
18 being served on the line. All food served was documented on the
19 weekly as served menu. This document is attached as Exhibit C.

20 17. Program Statement 4700.06, Food Service Manual, page 61,
21 requires that each inmate should be given the opportunity to have at
22 least 20 minutes of dining time for each meal. The Captain of the
23 FCI II ensured adherence to this procedure. However, individual ICE
24 detainees were not allowed to loiter in the dining hall. Once they
25 had finished their meal and were no longer eating, FCI II
26 Correctional Staff would instruct the detainees to leave the area.

27 18. Detainees received access to the institution commissary
28 beginning on July 12, 2018. The list of commissary items that were

1 available to them is attached as Exhibit E. Of the named plaintiffs,
2 all but one, made purchases from the commissary while housed at the
3 FCI II. The one plaintiff who did not, Noe Granado-Aquino, Register
4 Number 06712-461, could have done so. Instead, Mr. Granado-Aquino,
5 who was housed at the FCI II from July 20 through August 6, 2018,
6 used the money in his trust account to make telephone calls.

7 19. Detainees were visited by Chaplains in the housing units
8 once a week beginning on July 25, 2018. FCC Victorville has a staff
9 complement of one (1) Supervisory Chaplain and five (5) Staff
10 Chaplains, consisting of the following faiths: Protestant (2), Roman
11 Catholic (1), Muslim (1) and Buddhist (1). All chaplains are trained
12 to respect and facilitate the religious practice of all individuals
13 housed at the complex. If a particular religion sought to be
14 practiced is unknown to the Bureau, we have a process for seeking
15 recognition of the religion and accommodating its basic tenets. To
16 ensure detainees were provided avenues to practice their specific
17 beliefs, the chaplains relayed any concerns to the Executive Staff,
18 and such concerns were addressed.

19 20. During town hall meetings with the detainees, several
20 religious faiths practiced by the detainee population were
21 identified, as well as a need for religious services and group prayer
22 for these faiths. FCC Victorville staff communicated with the Sikh,
23 Hindi and Muslim detainee populations to establish the noted time
24 frames for their religious practices.

25 21. Beginning on August 10, 2018, BOP staff provided a space
26 for religious services and practices (including group prayer) to the
27 detainees for multiple religions, in accordance with the schedule
28 below. The following schedule was posted in each detainee housing

unit. FCC Victorville staff also communicated with the detainee population via "town hall" meetings to advise them of the availability of the Activity Rooms in each housing unit and of the Institution Chapel, for religious activities.

Christianity	9:00 AM to 10:00 AM & 1:00 PM to 2:00 PM	Daily	Housing Unit Activity Room
Catholic	6:30 PM	Fridays	Institution Chapel
Hindu	7:30 AM to 8:30 AM & 6:30 PM to 7:30 PM	Daily	Housing Unit Activity Room
Jum' ah	2:00 PM to 3:00 PM	Fridays	Housing Unit Activity Room
Sikh	6:30 PM to 7:30 PM	Wednesdays	Housing Unit Activity Room

As noted above, Catholic religious activities were available to detainees in the Chapel on Fridays at 6:30 p.m. On Fridays from 2:00 p.m. to 3:00 p.m., detainees were able to participate in Jum' ah religious activities in the designated room in each housing unit. Daily, from 7:30 a.m. to 8:30 a.m. and 6:30 p.m. to 7:30 p.m., detainees were able to participate in Hindu religious activities in the designated room in each housing unit. Daily, from 7:30 a.m. to 8:30 a.m. and 6:30 p.m. to 7:30 p.m., detainees could participate in Sikh religious activities in the designated room in each housing unit. Daily, from 9:00 a.m. to 10:00 a.m. and 1:00 p.m. to 2:00 p.m., detainees could participate in Christian religious activities in the designated room in each housing unit. Bureau of Prisons standard practice provides for the Presbyterian faith as part of the "General Christian Services".

22. FCC Victorville staff had the ability to obtain religious materials for the detainees, based on the needs of the detainee

1 population. The following notice was posted in the detainees' housing
2 units in 103 different languages: "Do you need religious materials?
3 Please let us know." This information was also presented to the
4 detainee population in "town hall meetings" using interpreters. A
5 limited number of religious texts were provided in each housing unit
6 for the detainees' use. Further, books and religious materials were
7 distributed by the Chaplaincy service staff upon request. For
8 example, the Chaplaincy service staff provided Bibles to the
9 detainees in English and Spanish.

10 23. With respect to the allegations about religious headwear
11 and other religious items, none of the ICE detainees arrived at the
12 FCI II wearing turbans or other religious apparel. Furthermore, none
13 of the detainees asked about obtaining or wearing such items. The
14 BOP staff at the FCI II first learned that some detainees wanted to
15 wear turbans from press accounts that were published on or about July
16 20, 2018. Upon learning of these issues, FCI II staff spoke the ICE
17 detainees some of whom then expressed an interest in wearing turbans.
18 As with religious diets, BOP has established policy for allowing
19 individuals to obtain, possess and wear religious items. See, 28
20 C.F.R. § 548.16 and Program Statement 5360.09, Religious Beliefs and
21 Practices, page 11. Once the BOP learned of the detainees' interest
22 in obtaining these items, the BOP found a source for them and
23 detainees were afforded the ability to purchase turbans through the
24 commissary starting August 8, 2018. However, kara (religious
25 bracelets) are not allowed in any BOP institutions for reasons of
26 safety and security.

27 24. During the initial arrival of ICE detainees from June 8
28 through 12, 2018, ICE detainees were secured in their cells while

1 medical personnel were conducting the initial medical screenings for
2 the detainees. Although the BOP ordinarily conducts these screening
3 in the medical department, the sheer number of newly arrived ICE
4 detainees, necessitated that these initial screening be conducted on
5 the housing unit. To protect individual privacy and to allow the
6 screening to be completed as quickly as possible, the detainees were
7 secured in their cells until all of the screenings were completed.
8 Once they were completed, all of the detainees were able to leave
9 their cells as described below and had the freedom of movement
10 described below.

11 25. After the screening was completed, the ICE detainees were
12 not generally confined to their cells. Instead, they were allowed to
13 in the common areas of their housing units during waking hours, i.e.,
14 from 6:00 AM to 9:00 PM, each day, other than during the required
15 secured counts which took place at 4:00 p.m. each day and at 10:00
16 a.m. on weekends and holidays. In addition to required secured
17 counts, detainees were only secured in their cells during non-waking
18 hours. Furthermore, the general population detainees were permitted
19 to leave their housing units to go to the dining hall for their meals
20 and to recreation as described below. Books and recreational board
21 games were available for use in the housing unit during waking hours.
22 Finally, all of the ICE Detainees had access to the BOP's Electronic
23 Law Library throughout their stay at the FCI II. In addition, on
24 August 2, 2018, ICE installed separate computer terminals containing
25 immigration law resources in the common areas of all of the units
26 housing ICE detainees.

27 26. ICE Detainees who had confirmed cases of active and
28 communicable chicken pox or scabies were placed in medical isolation,

1 to prevent transmission of these conditions to the other detainees. I
2 am not aware of any detainees being locked in their cells on a
3 general population unit as a disciplinary action. However,
4 approximately five ICE detainees were temporarily placed in the FCI
5 II's Special Housing Unit for either assaulting a staff member,
6 fighting with another ICE detainee or attempting to scale a fence.
7 However, ICE removed each these individuals from the FCI II as soon
8 as practicable and none of them was housed in SHU for more than a
9 week.

10 27. Regarding the claim that no educational classes were
11 available to the detainees, detainees were not offered educational
12 programs because the detainees were only temporarily housed at FCC
13 Victorville for a short time. The BOP did, however, provide them with
14 recreational opportunities as described in paragraph 29, below.

15 28. Detainees had daily access to ICE deportation officers in
16 their housing unit, and could ask the deportation officers for
17 information about their specific immigration cases. Detainees also
18 had the ability to submit a form to request information about their
19 immigration case to ICE. Further, since the detainees' arrival, each
20 of the housing units had two "ICE" telephones, one in each pod. The
21 "ICE" telephones could be used to place free calls to community and
22 international resources, including to their consulates. A notice was
23 posted next to these telephones listing the procedure for placing a
24 call on these phones and the offices and consulates that could be
25 reached using them. A copy of this notice is attached as Exhibit F.
26 Among the community agencies that could be reached without cost to
27 the detainee were the Immigrant Defenders Law Center, and Public
28 Counsel-Los Angeles.

29. Lastly, all of the BOP's procedures regarding the detainees were designed to ensure that they did not come in to contact with the federal inmates who remained at the FCI II. As the institution has limited outside recreation space, this separation meant that the detainees' outside recreation time was limited. However, all of the detainees housed in general population were afforded regular outdoor recreation. The "Movement Schedule" includes the recreation schedule that was used for the detainees, and is attached as Exhibit G. Detainees were regularly given at least two hours per day of outside recreational opportunities. By the time the last group of general population detainees was housed at the institution, they were provided with four hours a day of outdoor recreation.

30. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 24th day of September, 2018, at Victorville,
California.

JESS PINO

Jess Pino